IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 380/2004
MANSINGH Vs. STATE OF RAJASTHAN & ORS.

DATE: 13.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Anil Jain for the complainant-petitioner.
Mr. B.S. Chhaba, PP for the State.
None present for the accused-respondents.

****

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner against the judgment dated 04.11.2003 passed by the Additional Civil Judge (Jr. Division) & Judicial Magistrate First Class No.1, Dholpur in Criminal Case No. 61/2002, whereby the accused-respondent Nos. 2 to 6 have been acquitted from the offence under Section 147, 148, 323 and 341 IPC.

Learned counsel for the petitioner submits that after allowing the application under Section 319 Cr.P.C.,the witnesses were not summoned and their evidence was not recorded, therefore, the Court below has seriously erred in passing the impugned judgment and not to consider the witnesses. He also referred the order-sheets to show that no notice was issued to

summon the witnesses to prove the offence against accused Nihal Singh, Ramesh Singh, Khem Chand and Deewan Singh and they have been wrongly acquitted by the Court below holding that the prosecution has failed to prove any offence against the aforesaid accused.

None appeared on behalf of the accused-respondents despite service.

Having considered the submissions made by the learned counsel for the petitioner, learned Public Prosecutor for the State and upon careful perusal of relevant record as also the impugned judgment dated 04.11.2003, I am fully satisfied with the submissions made on behalf of the complainant-petitioner that the witnesses were not summoned and examined.

In the interest of justice, I deem it proper to give one more chance to summon the witnesses and examine them with liberty to cross-examine the same to the petitioner.

With these observations, the impugned judgment dated 04.11.2003 passed by the trial Court is herewith quashed and set-aside and the matter is remanded back to the trial Court for fresh adjudication as stated herein above.

The revision petition stands disposed of. Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/